

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

Criminal No. 09-CR-20177

vs.

HON. BERNARD A. FRIEDMAN

DEANDRE JAMES,

Defendant.

/

**ORDER TRANSFERRING DEFENDANT'S MOTION TO VACATE HIS SENTENCE
TO THE UNITED STATES COURT OF APPEALS FOR THE SIXTH CIRCUIT**

Defendant has filed a one-page letter in which he inquires about the possibility of relief under *United States v. Davis*, 139 S. Ct. 2319 (2019), and the appointment of "a lawyer to look over my case" if this relief is available [docket entry 26]. The government has filed a response opposing relief on this basis and the appointment of counsel. In his reply, defendant states that he "is seeking relief in the form of a correction, or [vacation] of [his] sentence to correct manifest injustice" [docket entry 29]. The Court therefore treats defendant's filings as a motion to vacate his sentence and for the appointment of counsel. The instant motion appears to be a second or successive 28 U.S.C. § 2255 motion, the first such motion having been filed on June 17, 2016 [docket entry 21]. A second or successive § 2255 motion "must be certified as provided in section 2244 by a panel of the appropriate court of appeals . . ." Section 2255. When, as in this case, a second or successive § 2255 motion is filed without the required certification, the district court is required to transfer the motion to the court of appeals. *See In re Hanserd*, 123 F.3d 922, 934 (6th Cir. 1997). Accordingly,

IT IS ORDERED that defendant's motion to vacate his sentence and for the appointment of counsel is hereby transferred to the United States Court of Appeals for the Sixth Circuit.

s/Bernard A. Friedman

Dated: September 13, 2019
Detroit, Michigan

Bernard A. Friedman
Senior United States District Judge

CERTIFICATE OF SERVICE

The undersigned certifies that a copy of the foregoing order was served upon each attorney or party of record herein by electronic means or first-class U.S. mail on September 13, 2019.

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S/Johnetta M. Curry-Williams
Case Manager